



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
New England - Region 1
5 Post Office Sq., Suite 100
Boston, MA 02109-3912

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Docket No.: TSCA-NON-2017-007

Mr. Keith Trembley
Keith Trembley Builders, Inc. dba
Paul Davis Restoration and Remodeling Co.
9 County Road
Milford, ME 04461

JAN 18 2017

Re: **NOTICE OF NONCOMPLIANCE for Potential Violations of the Residential Property Renovation Requirements**

Dear Mr. Trembley:

The United States Environmental Protection Agency Region 1 - New England (EPA) is issuing this Notice of Noncompliance (NON) to you for potential violations of the Residential Property Renovation requirements codified at 40 C.F.R. § 745, Subpart E, also known as the "RRP Rule." The RRP Rule requirements were published on April 22, 2008 and effective April 22, 2010.

Among other things, the RRP Rule requirements aim to prevent lead-based paint (LBP) hazards created by renovation, repair, and painting activities that disturb LBP in target housing and child-occupied facilities. The regulations require contractors, property owners, managers, and others who perform repairs and renovations of target housing for compensation that disturb more than six square feet of interior or 20 square feet of exterior painted surface (even if it is not known whether the paint contains lead) to:

- provide the property owners and occupants with the EPA pamphlet entitled "Renovate Right" *before* repair/renovation starts;
- obtain confirmation of receipt of lead pamphlet from the owner and occupants or a certificate of mailing from the post-office;
- for work in common areas of multi-family housing, provide written notice describing the planned repair/renovation to each affected unit;
- ensure that renovators, contractors, and dust sampling technicians are properly trained;
- obtain proper certification (firm and individual);
- use safe renovation practices;

- develop and maintain required RRP records/recordkeeping system, including one record that proves that post-renovation cleaning has occurred (you may use the “Sample Renovation Recordkeeping Checklist” on page 27 of the EPA’s “Small Entity Compliance Guide to Renovate Right” (dated September 2011), a copy of which is enclosed in the green Compliance Assistance Packet); and
- keep the required RRP records for at least three years.

There are also special notification requirements in child-occupied facilities, such as day care centers and pre-schools.

A contractor, property owner, manager, or other renovator who has failed to comply with the RRP requirements has committed a prohibited act under TSCA Section 409, 15 U.S.C. §2689, and is liable for civil penalties under TSCA Section 16, 16 U.S.C. §2615.

Management/Ownership

Keith Trembley Builders, Inc. dba Paul Davis Restoration and Remodeling Company (Trembley Builders) is owned by you, Keith Trembley. It started the renovation business about 35 years prior to the EPA inspection. Trembley Builders is a residential and commercial building contractor that specializes in emergency restoration services after a fire or flood. At the time of the inspection, you informed the EPA inspectors that your company employed over 20 full-time workers, of which 7 are certified as RRP Individual Renovators. For two years prior to this EPA inspection, Trembley Builders, reportedly completed ~30 projects in pre-1978 target housing.

Inspection History

On January 21, 2016, EPA Inspectors Molly Magoon and Alma Padilla conducted an inspection at Trembley Builders with Maurice Newland, Operations Manager; Lisa Mahaney, Office Manager; and outside legal counsel Adria LaRose present. The inspection was conducted to determine the compliance status and to provide compliance assistance for the RRP Rule requirements. Inspector Magoon had requested renovation records including copies of contract documents available for renovation projects completed during the period from January 2014 to January 2016 and any records related to a complaint filed with EPA by Jennifer Cook. The renovation records for 5 recent jobs requested by EPA prior to the inspection were provided by Trembley Builders during the inspection.

During the inspection, Mr. Newland acknowledged that Trembley Builders did not provide notification or provide the EPA lead information pamphlet, *Renovate Right*, as required, before starting renovation work in the residential target housing owned by Ms. Cook of 188 Veazie Street in Old Town, Maine around September 25, 2013. Furthermore, you admitted to the EPA inspectors that because you thought the job at Ms. Cook’s was “full demolition” and the house was vacant after a fire, the work that Trembley Builders did there was not covered by the EPA’s RRP Rule. Inspector Magoon explained the difference between partial and full demolition of an entire structure.

Inspector Magoon further explained that partial demolition work could result in the disturbance of painted surfaces and is therefore covered by the RRP Rule. The EPA was made aware that this matter is involved in further litigation between your company and Ms. Cook.

Potential Violations

This TSCA NON documents two potential violations that EPA found during the inspection. A summary of each violation is provided below. You are requested to take necessary corrective measures.

1. Failure to provide the owners or adult occupants with an EPA-approved lead hazard information pamphlet and obtain acknowledgement of receipt.

Provision Violated: 40 C.F.R. §745.84.

2. Failure to retain and if requested, make available to EPA all records, which among others, include post renovation cleaning verification, necessary to demonstrate compliance for a period of 3 years.

Provision Violated: 40 C.F.R. §745.86.

Compliance with the RRP Rule Requirements

When conducting applicable repairs and renovations for compensation (including rent) in target housing or child-occupied facilities:

- Owners/adult occupants must be notified and provided with a lead hazard information pamphlet ("Renovate Right") before starting repair/renovations that will disturb more than six square feet of interior or 20 square feet of exterior painted surface in occupied target housing;
- All work must be performed in a lead-safe manner consistent with the RRP Rule;
- A system must be in place to document compliance - see EPA's December 2008 "Small Entity Compliance Guide to Renovate Right: EPA's Lead Based Paint Renovation, Repair, and Painting Program" booklet in the enclosed Compliance Assistance Packet; and
- Records required by the RRP Rule requirements must be retained for three years.

For your convenience, a Compliance Assistance Packet, containing information about the Real Estate Notification and Disclosure Rule and the Residential Property Renovation requirements, is enclosed.

The Purpose of This NON

The primary purpose of this letter is to identify problem areas and seek improved compliance. This NON does not limit or otherwise preclude EPA from taking civil or criminal enforcement action pursuant to Section 16 of the Toxics Substance Control Act, 15 U.S.C. § 2615.

While you are receiving a NON for these alleged violations at this time, any further violation(s) of the RRP Rule requirements by you may result in the issuance of a Civil Administrative Complaint for the assessment of penalties. Violations occurring after the time that you were inspected may be assessed a higher penalty, based on a potentially higher degree of culpability for such violations.

I urge you to take necessary steps to address the above-cited alleged violations. If you have any questions regarding this letter or how to comply with the RRP Rule requirements please contact Molly Magoon of my staff at (617) 918-1848.

Sincerely,



Sharon M. Hayes, Manager
Toxics and Pesticides Unit
Office of Environmental Stewardship
US EPA – New England

Enclosures: Compliance Assistance Packet

cc: Alma Padilla, US EPA
Jamie Tansey, Maine Department of Environmental Protection
Eric Frohmberg, Maine Department of Health and Human Services